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In re Application of:	:	
MATHIOWITZ, Edith, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/587,884	:	CHANGE INVENTOR'S NAME
PCT No.: PCT/US2004/015443	:	(37 CFR 1.182)
International Filing Date: 17 May 2004	:	
Priority Date: 29 January 2004	:	
Attorney Docket No.: B0877.70027US01	:	
For: METHODS FOR PROGENIOTR CELL	:	
RECRUITMENT AND ISOLATION	:	

This decision is issued in response to applicants' 05 June 2007 submission of an executed declaration and supplemental Application Data Sheet (ADS) in which the name of the second inventor has been changed. This submission has been treated as a petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES. Deposit Account No. 23-2825 will be charged the required \$400 petition fee.

BACKGROUND

On 17 May 2004, applicants filed international application PCT/US2004/015443. The application claimed a priority date of 29 January 2004, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 29 July 2006. The published international application identified the second inventor as Diana M. FERRIS.

On 27 July 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 02 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 05 June 2007, applicants filed the response to the Notification Of Missing Requirements considered herein. The response includes payment of the required surcharge and a declaration executed by the second inventor in which this inventor is identified as Diana M. JAMES (the declaration indicates that this is the inventor's married name). Applicants'

submission also includes a supplemental ADS in which the name of the second inventor has been changed to Diana M. JAMES.

Applicants' 05 June 2007 submission is treated herein as a petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES, as required before the declaration filed 05 June 2007 may be accepted under 37 CFR 1.497.

DISCUSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following (emphasis added):

Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

In the present application, the discrepancy between the second inventor's name as listed in the international application (FERRIS) and in the filed declaration (JAMES) is more than a "typographical or transliteration error." Accordingly, in order to correct the name of record for this inventor, a grantable petition under 37 CFR 1.182 is required.

Section 605.04(c) of the MPEP, referred to above, sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' 05 June 2007 submission included the authorization to charge Deposit Account No. 23-2825 for required fees. Based on this authorization, Deposit Account No. 23-2825 will be charged the required \$400 petition fee. However, applicants' submission does not include the required "statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Based on the above, applicants have failed to submit all the requirements of a grantable petition to correct the second inventor's name; therefore, the name of record for the second

inventor remains Diana M. FERRIS. Because the declaration filed 05 June 2007 identifies the second inventor as Diana M. JAMES, this declaration does not properly identify the inventors of record herein. The declaration is therefore defective for failure to comply with the requirements of 37 CFR 1.497(a).

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Diana M. FERRIS to Diana M. JAMES is **DISMISSED** without prejudice.

On the present record, the declaration filed 05 June 2007 is defective for failure to properly identify the inventors of record herein.

If reconsideration of the petition under 37 CFR 1.182 on the merits is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration must include the required statement signed by the inventor whose name is to be changed, setting forth both names and the procedure whereby the change of name was effected (i.e., due to marriage), or a copy of the court order changing the inventor's name, as discussed above and in the MPEP.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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